



A GUIDE TO REASONABLE ACCOMMODATION FOR EMPLOYERS AND EMPLOYEES:

What it Means and How it Works

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A GUIDE TO REASONABLE ACCOMMODATION FOR EMPLOYERS AND EMPLOYEES:

What It Means and How It Works!

- What is meant by the term “reasonable accommodation?”
- What role does it play in the employment process?
- What does the employer or job seeker with a disability need to know about it?

What It Means:

One of the most misunderstood aspects of the employment of individuals with disabilities is the concept of reasonable accommodation. The term is not new! It initially became part of our lexicon with enactment of the 1964 Civil Rights Act. In that landmark piece of legislation, reasonable accommodation was to be provided those persons whose religious beliefs restricted them in some way (e.g., precluding work after sundown or on Saturday). In fact, the concept of accommodating workers can be traced back to the 1930's when the first coffee break was written into a labor contract. Such things as air conditioning, sick leave and paid vacations are in reality, everyday examples of accommodating workers. Accommodations such as these are now accepted as standard practice by employers.

What It Is:

Reasonable accommodation may be thought of as efforts made by the employer to remove artificial or real barriers which prevent or limit the employment and upward mobility of people with disabilities. Reasonable accommodation, as defined in the Americans with Disabilities Act may include:

- Providing or modifying equipment or devices.
- Job restructuring.
- Part-time or modified work schedules.
- Reassignment to a vacant position.
- Adjusting or modifying examinations.
- Training materials or policies.
- Providing readers and interpreters.
- Making the workplace readily accessible to, and usable by, people with disabilities.

What makes this concept sometimes difficult to grasp is the fact that it can only be determined on a case-by-case basis. It must take into account the applicant, his/her specific limitations, the particular job duties, the working environment, and the financial capabilities or business constraints of that employer.

Under ADA, a person with a disability is qualified if he or she can perform the “essential functions” of the job with or without reasonable accommodation. Essential functions are the fundamental job duties that the disabled person must be able to do without assistance, or with the help of reasonable accommodation. The factors determining essential or nonessential functions include:

- Whether the reason the position exists is to perform that function.
- The number of other employees available to perform the function or among whom the performance of the function can be distributed.
- The degree of expertise or skill required to perform the function. An employer cannot refuse to hire a disabled candidate because the disability prevents the person from performing duties that are not essential to the job.

How It Works

The simplest way to define reasonable accommodation is to break it down into specific categories. These are: Work Restrictions, Job-site Modification, Job Restructuring, Support Services, Auxiliary Aids, and barrier Removal (architectural and institutional).

Job Restructuring:

This is the most common method of providing reasonable accommodation. It usually involves modifying or eliminating nonessential job duties or functions or can, simply mean allowing for a flexible or reduced work schedule.

For example, an employer may transfer or eliminate job related activities which require the employee to work in adverse environmental situations such as around irritating chemicals or extreme weather conditions. The employee with a disability may be exempted from driving a company car, heavy lifting or climbing. Nonessential filing for a blind employee might be transferred to a sighted person.

Another way to restructure a job is to allow more flexible work schedules. This can mean anything from more frequent fatigue breaks to reduced hours or job sharing. Allowing time off for medical appointments or flexible hours to accommodate therapy is a frequent accommodation practice.

Job Site Modification:

This can involve changing the method and means by which a task is accomplished and can sometimes be more complex and technical. Nevertheless, it can often just take some imagination, creativity and a little flexibility. It is essential that when a job site modification is contemplated, the disabled job seeker should be consulted - from the outset - and kept involved throughout the accommodation process. Raising a desk for someone in a wheelchair is an obvious example of this category of reasonable accommodation.

Support Services

This is an accommodation in which another individual must assist the disabled employee to perform the job. The primary criterion to keep in mind is that the additional or support person is there to facilitate job performance and not to complete the actual job duties. An interpreter lets a deaf employee know what is being said by a hearing person and how it is being said, without interposing his/her own feelings or opinions. A reader allows a blind employee to know what is on the printed page and follows the employee's directions regarding disposition of the information. In most instances, hearing or reading is not a job duty; understanding what has been spoken or written and making use of that information is important!

Auxiliary Aids:

This term refers to the tools or equipment which allow a job to be performed efficiently, with little or no assistance from nondisabled co-workers. This category of accommodation causes the greatest employer concern from the standpoint of potential expense. What employers often don't realize however, is that many aids and devices are relatively inexpensive. A speech synthesizer to permit a blind person to access the office computer can cost as little as \$200. Also, many disabled people have their own equipment which they can bring to the job if necessary. Examples of common auxiliary aids include talking calculators and computers, telecommunications devices for the deaf, one-handed typewriters and revolving desk tops.

Barrier Removal:

This category is divided into Architectural - the best known and most discussed; and Institutional - less well known but frequently the most difficult to overcome. Architectural barriers such as steps, narrow doorways, inaccessible restrooms, etc., are easily identified barriers and are usually not that difficult to modify or eliminate. Institutional barrier removal, however, is somewhat more complex and not as easily understood by employers. Employment application forms, for example, may not ask questions about disabilities, but such questions may be asked at a preplacement medical examination. These medical exams must, however, be required of all new hires for a specific position, not just those with disabilities.

Other kinds of institutional barrier removal would include: maintaining a TTY for hearing impaired applicants and posting and publicizing the number, assisting visual or learning impaired persons to complete applications, providing an alternative testing site if the usual one is inaccessible.

This is by no means a comprehensive review of the topic of reasonable accommodation but rather, an attempt to summarize and clarify a subject which most employers and too many disabled individuals looking for employment still find very difficult to understand. It is up to people with disabilities to be as knowledgeable as possible concerning their needs on the job. Such knowledge may mean the difference between success and failure for the disabled job seeker.

